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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,651	10/24/2003	Brian Purser	1384/7	8635
23638	7590	06/14/2005	EXAMINER	
ADAMS EVANS P.A. 2180 TWO WACHOVIA CENTER CHARLOTTE, NC 28282			CONSILVIO, MARK J	
			ART UNIT	PAPER NUMBER

2872

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/692,651

Applicant(s)

PURSER, BRIAN

Examiner

Mark Consilvio

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____                                                 |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____                                                              | 6) <input type="checkbox"/> Other: ____                                     |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 4/4/2005 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a reflective surface being positioned in a spaced-apart and separate physical relationship to the viewing device and within the first field of view so as to reflect a view of the selected area to the viewer) are clearly disclosed by the Fojtik reference. First, looking through a lens (at the bottom of fig. 2) into the outer tube (1) provides a first field of view (as shown in fig. 3). This view includes an inner viewing area seen through the inner tube (3) and outer viewing area seen through the outer tube (1). This outer viewing area includes at its distal end a reflective surface (6) providing an expanded view of a selected area (col. 1, line 58 – col. 2, line 2). Second, the Fojtik reference shows the reflective surface (6) is in a separate physical relationship to the viewing device in the same manner that the applicant's reflective surface (12) is in a separate physical relationship to the viewing device (11) as shown in fig. 12 of the instant application. In both cases the reflective surface and viewing device are separately formed pieces that are in indirect contact with one another via further support structure.

In response to the applicant's arguments concerning claims 18 and 19, the rejections have been adjusted to include the new claim limitation as stated supra and to more clearly articulate the grounds of rejection. It is noted that rejection for claim 19 does not provide new grounds but

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merely simplifies the rejection previously presented to avoid confusion concerning the Mickelson reference.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Fojtik et al. (US Patent No. 3,910,676).

With respect to claim 1, Fojtik et al. discloses a security viewing apparatus to provide a user with an expanded view of a selected area. Fojtik et al. shows comprising a viewing device having a first field of view and a convex reflective surface (6) having a second field of view substantially greater than the first field of view. Fojtik et al. shows the reflective surface (6) being positioned in a spaced-apart and separate physical relationship to the viewing device and within the first field of view so as to reflect a view of the selected area to the viewer. (See fig. 2.)

With respect to claim 2, Fojtik et al. does not expressly disclose the viewing device includes a magnification means for adjusting the first field of view with respect to the second field of view produced by the convex reflective surface. However, Fojtik et al. does disclose that the reflective surface (6) positioned with the second tubular member (3) is slidably mounted for axial movement. This movement will inherently adjust the magnification of the field of view as seen by the viewer. (See fig. 2 and col. 1, lines 48-50.)

With respect to claim 3, Fojtik et al. shows a means for mounting the viewing device to a vertical surface and the convex reflective surface includes a means for mounting the convex reflective surface to a surface opposite the vertical surface. (See figs. 1 and 2.)

With respect to claim 4, Fojtik et al. shows a mounting flange for mounting the viewing device to the vertical surface. (See figs. 1 and 2.)

With respect to claim 9, Fojtik et al. shows the eyepiece comprises at least one lens. (See fig. 2.)

With respect to claim 14, Fojtik et al. shows the reflective surface (6) has a convex cross-section. (See fig. 2.)

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8, 10-13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fojtik et al. (US Patent No. 3,910,676) in view of Mickelson (US Patent No. 6,400,503).

Fojtik et al. discloses all the limitations of claims 1-4 and that when the horizontal tube (24) is in the proper arrangement, "the device functions as a right-angled periscope." (See fig. 4 and col. 2, lines 54-61.) With respect to claim 13, Fojtik et al. also shows the horizontal tube (24) comprising an objective lens and protrudes through a vertical surface (13) from an inner

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side of the vertical surface to an outer side of the vertical surface. (See fig. 2.) Fojtik et al. does not expressly disclose any additional limitations to a periscope-type attachment.

However, with respect to claim 5, Mickelson discloses a periscope with an inner vertical tube (39) mounted inside of an outer vertical tube (34) for allowing a telescoping adjustment in a vertical direction, and an eyepiece (20) attached to a lower end of the outer vertical tube (34) for viewing the first field of view. (See fig. 1.) With respect to claim 6, Mickelson shows the inner vertical tube (39) is adjustable in a vertical direction along a central vertical axis (y-axis) of the outer vertical tube (34) for positioning the eyepiece (20) in relation to a user's eye. (See fig. 1 and 2.) With respect to claim 7, Mickelson shows the outer vertical tube (39) and the inner vertical tube (34) house a plurality of lenses (29-32) and a plurality of reflective devices (25 and 27) for providing a clear and adjustable first field of view. (See fig. 1 and 2.) With respect to claims 2 and 8, Mickelson discloses an adjustment means cooperating with the plurality of lenses for adjusting a focus and magnification of the viewing device. (See col. 1, lines 55-65.) With respect to 12, Mickelson shows the reflective devices (25 and 27) are selected from the group consisting of mirrors and prisms. (See fig. 2.)

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the inventions of Fojtik et al. and Mickelson to attach the horizontal tube (24) of Fojtik et al. to the top end of the inner vertical tube (39) of Mickelson. One of ordinary skill in the art would have been motivated to do this to provide a periscope with further focusing and magnifying functions to a wide-angle viewing device. Further, it would have been obvious to a person of ordinary skill in the art to switch the inner and outer vertical tubes as desired.

With respect to claim 10 and 11, while Mickelson is silent to the material of the lenses, it is well known in the art to make optical lenses from glass or plastic. Evidence of the use of glass and plastic can be found in Fojtik et al. that discloses the window (15) is made of a material selected from the group consisting of glass and plastic. (See col.2, lines 10-11)

With respect to claims 15 and 16, while Fojtik et al. and Mickelson are silent to the reflective surface is defined as an arc of a sphere having a diameter of eight feet and is rectangularly-shaped, it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the proper size of a component involves only routine skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to shape the reflective surface to the desired curvature.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fojtik et al. (US Patent No. 3,910,676) in view of Korein et al. (US Patent No. 6,226,035).

Fojtik et al. teaches all the limitations of claim 1. While Fojtik et al. does not expressly disclose the convex reflective surface is adjustable via an adjustable joint, Fojtik et al. does show a reflective surface (17) that is adjustable via a joint (19). Further evidence can be seen in fig. 3A of Korein et al. (See col. 10, lines 53-67) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to allow the convex the reflective surface to be adjustable via an adjustable joint. One would be motivated to do this to allow the reflective surface to be placed off-center from the optical axis providing further adjustment to the field of view.

With respect to the claim 18, though Fojtik does not disclose the installation method of claim 18, the general steps of “mounting,” “adjusting,” and “positioning” are very broad. Since the security apparatus of Fojtik must be installed to properly function, one of ordinary skill would necessarily follow the steps of mounting, positioning, and adjusting to accommodate such a device. Therefore, the method of installing a security viewing apparatus is seen as obvious in light of the structure stated supra concerning the limitations from claims 1, 3, 4, 13, and 17.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fojtik et al. (US Patent No. 3,910,676).

With respect to claim 19, though Fojtik does not disclose the method of claim 19, the general steps of “adjusting” and “looking” are very broad. Since the security apparatus of Fojtik designed to be used as a viewing device, one of ordinary skill would necessarily follow the steps of looking and adjusting in the use of such a device. Therefore, the method of using a security viewing apparatus is seen as obvious in light of the structure stated supra concerning the limitations from claims 1, 2, 5, and 6.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**



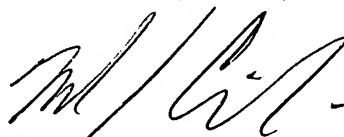
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Consilvio whose telephone number is (571) 272-2453. The examiner can normally be reached on Monday thru Friday, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Mark Consilvio**  
USPTO Patent Examiner  
Jefferson, 3C21 AU-2872  
(571) 272-2453



**DREW A. DUNN**  
SUPERVISORY PATENT EXAMINER